

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the
Implementation of the Suspension of Direct
Access Pursuant to Assembly Bill 1X and
Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
SOLICITING COMMENTS AS TO
FINALIZATION OF COMPETITION TRANSITION
CHARGES REQUIREMENTS FOR 2001-03**

This ruling provides notice and opportunity to comment concerning the need for, or extent of, further proceedings as a basis to implement “tail competition transition charges” (CTC) for the three major electric utilities for the period 2001-02 and for calendar year 2003. In Decision (D.) 02-11-022, the Commission adopted a “total portfolio” approach to measure bundled customer indifference with respect to Direct Access (DA) customer migration under the DA suspension provisions adopted in D.02-03-055. Under the adopted approach, DA customers are responsible for a portion of both California Department of Water Resources (DWR) purchases and designated utility-related cost components necessary to keep bundled customers indifferent on a total portfolio basis. The DA obligation both for DWR and CTC costs for the period since DA suspension on September 20, 2001 continuing through 2002 must be determined, as well as for 2003.

By Administrative Law Judge (ALJ) ruling dated June 24, 2003, comments were solicited concerning coordination between this proceeding and Application

(A.) 00-11-038 et al. in determining the total cost responsibility obligation of DA and departing load in conjunction with finalizing the total DWR revenue requirements for 2001-02 and 2003. Today's ruling provides the additional opportunity for parties to comment concerning coordination with respect to the piece of the cost responsibility equation relating to CTC, and any required procedural measures to provide for adoption of final CTC values for 2001-02 and 2003.

In D.03-07-030, the Commission determined that any tail CTC component of the DA CRS covering the 2001-02 historic period and 2003 prospective period will be adopted through this rulemaking proceeding. For 2004 and thereafter, the Commission determined that CTC values are to be determined in the annual Energy Resource Recovery Account (ERRA) proceeding for each utility.

The CTC component must be adopted expeditiously to finalize the Cost Responsibility Surcharge (CRS) undercollection for the 2001-02 period and the 2003 CRS obligation in order to assure bundled customer indifference as required by D.02-11-022 and to give greater certainty to DA and departing load customers as to their total cost responsibility obligation through 2003. The finalization of the CTC component needs to be coordinated with the finalization of the DWR components of the DA CRS obligation as required under the total portfolio approach.

The Record To Date

Parties have already produced certain testimony in DA CRS cap relook phase, which addressed CTC requirements to some extent. This testimony, however, was mainly focused on the use of CTC data for modeling of sensitivity analyses in relation to the DA CRS cap. Thus, parties should comment as to any need to supplement previously submitted CTC data to provide a sufficient basis

for the Commission to adopt final CTC requirements applicable to 2001-02 and 2003 prospectively. The extent of previously submitted showings by each utility are as follows:

Pacific Gas and Electric Company (PG&E)

PG&E previously presented testimony in the DA CRS cap relook phase (Exhibit 153-156), proposing adoption of a CTC revenue requirement for 2003 of approximately \$842 million covering bundled, DA, and DL customers. Pacific Gas and Electric Company (PG&E) also presented a revenue allocation and rate design proposal to collect the 2003 CTC requirements. PG&E presented its testimony with the stated intent of having the Commission adopt actual CTC values for 2003. PG&E did not present any separate proposed revenue requirement applicable to the 2001-02 DA CRS undercollection period. In its comments on coordination issues, however, PG&E recommends using the 2001-2002 data included in the model provided in the 2003 supplemental case for the limited purpose of calculating the DA CRS indifference amount/rate for 2001-2002.

Southern California Edison Company (SCE)

SCE presented testimony in the DA CRS cap relook phase concerning its 2003 utility retainer generator (URG) costs and proposed CTC element utilizing a forecast originally prepared in May 2001 as part of its General Rate Case. SCE presented opening testimony on this issue in Exhibit 159 and rebuttal testimony in Exhibit 161. SCE offered this testimony merely for the purpose of modeling illustrative sensitivity analyses of various DA CRS scenarios, recognizing that actual adopted figures for URG cost recovery would be scrutinized in a separate phase. SCE did not provide an estimate of employee-related CTC on the basis

that the amounts involved were not material in the context of merely modeling such sensitivity impacts.

As noted in comments filed July 7, 2003, in response to the June 24, 2003 ALJ ruling, SCE previously provided DWR recorded numbers for its utility retained generation for 2001 and 2002. SCE indicates that those numbers remain unchanged. SCE provided updated URG figures for 2003 in Table VII-1 of Exhibit SCE-1 of its recent (ERRA) filing. SCE states that these updated URG figures for 2003 have negligible impact on the calculation of its CTC. SCE has indicated that it does not believe that further evidentiary hearings will be necessary to finalize the total DA cost responsibility for 2001-02 undercollections.

San Diego Gas and Electric Company (SDG&E)

SDG&E's ongoing CTC was initially set pursuant to D.99-05-051, and made effective when SDG&E ended its AB 1890 rate freeze on July 1, 1999. SDG&E's ongoing CTC was subsequently redesigned pursuant to D.00-10-0948, effective January 1, 2001. In D.02-12-064, the Commission adopted a settlement whereby SDG&E's CTC component would continue until such time as the Assembly Bill (AB) 265 balancing account has been reduced to zero and then at that time it would be revisited and adjusted in accordance with remaining tail costs. SDG&E took the position during the DA CRS cap relook phase that because it has no sunk costs left to recover pursuant to AB 1890, and because its ICIIP mechanism ends this year, that no other utility retained generation costs remain to be addressed in the CTC component. Thus, SDG&E did not offer any testimony on CTC cost data in the DA CRS relook phase.

Comments Concerning Additional Record Development

Parties shall indicate in response to this ruling what, if any, additional data submissions and/or proceedings they believe are necessary to complete the

record as to the CTC revenue requirement and per-kilowatts-per-hour (kWh) charge to be adopted for the 2001-02 historic period and prospectively for 2003. To the extent parties propose to offer any supplemental information, they should indicate what they propose to submit to finalize the record concerning 2001-03 CTC requirements. To the extent that SCE has addressed its 2001-03 CTC in its Erra filing, SCE is authorized to offer its relevant exhibit(s) from the Erra proceeding as a filing in this proceeding.

Parties should indicate what disputes, if any, need further resolution before final CTC revenue requirements and per-kWh values can be adopted. In the DA cap relook phase, for example, certain parties differed as to the proper source for deriving CTC values. The California Manufacturers' and Technology Association (CMTA), in particular, argued that adopted CTC should reflect the most recent determination by the Commission that is based on a substantial review of URG costs. CMTA supported the use of the URG costs for 2002 as adopted for each utility in D.02-04-016. CMTA opposed PG&E's proposed CTC revenue requirement that was based on PG&E Advice Letter No. 2233-E and that significantly updated the URG revenue requirement levels adopted in D.02-04-016. For past periods, CMTA argues that recorded URG revenue requirements and volumes should be used to estimate CTC most accurately. CMTA also argued that PG&E's CTC calculations are still not sufficiently "transparent" and consistent with the other utilities.

CMTA also argued that SDG&E's current CTC is not consistent with the total portfolio approach adopted in D.02-11-022 because SDG&E does not include below-benchmark URG resources. D.03-07-030 stated that SDG&E would be required to conform to the total portfolio approach consistent with D.02-11-022. Thus, with respect to SDG&E, there appears to be an outstanding

issue as to identification of below-benchmark resources that have erroneously been excluded in conflict with the DA CRS total portfolio approach adopted in D.02-11-022, and calculating SDG&E's DA CRS obligation utilizing the corrected CTC values.

If any party believes that the opportunity to file comments provided by this ruling is not sufficient, or that additional discovery, evidentiary hearings, workshops, or other procedural measures are required before the Commission can adopt (or adjust) final CTC revenue requirements and applicable per-kWh charges to be applied by each utility for the indicated periods, specific proposals concerning further discrete steps should be provided in response to this ruling. If any party claims that additional evidentiary hearings are necessary, they must state the material disputed issue(s) of fact that they would address at such an evidentiary hearing.

IT IS RULED that:

1. Comments are hereby solicited from parties, concerning the need for, or extent of, further development of the record to provide a basis to adopt a "tail competition transition charge" (CTC) for the three major electric utilities for the historical period 2001-02 and for calendar year 2003.
2. To the extent that Southern California Edison Company has addressed its 2001-03 CTC in its Energy Resource Recovery Account (ERRA) filing, SCE is authorized to offer its relevant exhibit(s) from the ERRA proceeding as a filing in this proceeding.
3. If any party claims that additional evidentiary hearings are necessary, they must state the material disputed issue(s) of fact that they would address at such an evidentiary hearing.

4. Opening comments shall be due on August 22, 2003, and reply comments shall be due on August 29, 2003.

Dated August 4, 2003, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Administrative Law Judge's Ruling Soliciting Comments As To Finalization of Tail Competition Transition Charges Requirements for 2001-03 on all parties of record in this proceeding or their attorneys of record.

Dated August 4, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.